

# EXHIBIT D



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March 30, 2010

**PRIVILEGED AND CONFIDENTIAL**

Fred Thompson  
Motley Rice  
28 Bridgeside Blvd.  
Mt. Pleasant, SC 29464  
([fthompson@motleyrice.com](mailto:fthompson@motleyrice.com))

Re: *Digitek® Product Liability Litigation, MDL # 1968*

Dear Fred:

On March 24, 2010, you sent a four page document called "Settlement Proposal Outline." As I told you over the phone, assembling all the data we needed and talking to all the people involved in the decision making process is a time consuming one and so it will take us at least 7 to 10 days to get back to you in a detailed fashion. But, in the interim, we wanted to offer a few general observations.

Your proposal appears to follow the structure used in the *Scerzone* litigation. We have not agreed to structure the settlement in that matter and continue to explore other options such as a Propulsid model.

Next, the dollar figures mentioned on page 3 of your proposal are far too high since there is no evidence that any plaintiff actually received defective Digitek®. But we assume these are simply starting numbers and are approaching them in that light.

The proposal does not factor in proof of defective Digitek. It assumes that if a person were taking the drug and had one of the listed injuries they are entitled to compensation. The lack of such proof needs to be factored into the settlement. This is the most glaring deficiency of the proposal

Your proposal does not say much of anything about who decides whether there is a valid claim. You make reference to a medical panel, so at least you contemplate something objectively scientific but this is obviously an area for much discussion.



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We will get back to you with many specifics later.

Sincerely,

Matthew Moriarty

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